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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/801,458    02/18/97    KOBATA

H    KOB-102

EXAMINER

LM01/0628

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ART UNIT

PAPER NUMBER

2757

DATE MAILED:

06/28/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/801,458

Applicant(s)

Kobata

Examiner

William Titcomb

Group Art Unit

2757



☒ Responsive to communication(s) filed on 5-21-99

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) 1, 10, 20, and 23 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 2-9, 11-19, 21, 22, and 24-26 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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**Part III. DETAILED ACTION**

***Drawings***

1. The drawings in this application are objected to by the Draftsperson as informal. Any drawing corrections requested, but not made in the prior application should be repeated in this application if such changes are still desired. If the drawings were changed and approved during the prosecution of the prior application, a petition may be filed under 37 CFR 1.182 requesting the transfer of such drawings, provided the parent application has been abandoned. However, a copy of the drawings as originally filed must be included in the 37 CFR 1.60 application papers to indicate the original content.

***Specification***

2. Twenty-two (22) claims are presented for examination, consisting of: claims 2-9, 11-19, 21-22, and 24-26.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 2-9, 11-19, 21-22, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filepp, et al. (U.S. Patent No. 5,758,072) (hereinafter "Filepp") in view of Platt (U.S. Patent No. 5,421,009). In regards to claims 9, 11, 13-15 and 17-18, Filepp discloses a client/server provider environment, substantially as claimed, having the features:

- means at client including computer for running client software (col. 4, lines 19-24);
- client software provider by service provider for periodic transmission back to server (col. 5, lines 23-25); and
- means at client for transmitting user's individual system usage characteristics to server (col. 88, lines 28-38).

Although the system disclosed by Filepp shows substantial features of the claimed invention, as discussed above, it does not explicitly disclose:

- ascertaining infrastructure-related information regarding the client system when the client system executes the software, selecting the content to transmit in response to the configuration of the client system as indicated by the infrastructure-related information ascertained by the software; and
- a filtering selection from a group of infrastructure-related information of the client system, including: processing power, hard disk capacity, identity of installed applications, modem speed, log-in history, and serial numbers of the software delivered.

Nevertheless, such limitations would have been an obvious modification to Filepp as evidenced by Platt.

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Platt, in an analogous art, teaches a method of remotely installing software from a central computer, including:

- interrogation of the remote system to determine whether the <service provider> has authorization to execute commands on a <client> remote system (FIG. 8, col. 5, lines 64-68);
- if authorization has been confirmed, after the interrogation, block (810) transfers to block (812) which interrogates the remote system to determine the type of hardware used in the remote system (FIG. 8, col. 6, lines 17-25);
- block (816) interrogates the remote system to determine the type of operating system level, and block (818) determines whether the remote system has sufficient disk space to allow for the transmission (FIG. 8, col. 6, lines 33-37, and lines 42-46); and
- the amount of disk space could also be dynamically determined from the amount of space used by the files on the server computer (col. 6, lines 47-50).
- In regards to claims 16 and 19, depending from the claims of 15 and 18 respectively, Filepp shows the limitations, substantially as claimed, of a server for creating a database of information transmitted from the client, for filtering database data, and displaying selected portions (col. 88, lines 28-42).

Given the teachings of Platt, a person having ordinary skill in the art, at the time of the invention, would have been motivated to modify Filepp by employing a system that executes the software, selecting the content to transmit in response to the configuration of the client system as

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indicated by the infrastructure-related information ascertained by the software, to ensure successful remote polling processes prior to data transmission to a client system.

In regards to claims 2-7, Platt shows the limitations of the hardware and software, substantially as claimed (FIG. 8, cols 5 and 6 generally, and as discussed above).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 2-9, 11-19, 21-22, and 24-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Titcomb whose telephone number is (703) 305-0081.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess, can be reached on (703) 305-4792. The facsimile number for this Group is (703) 305-7201. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group's Receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)


**or:**

(703) 308-5357 (for informal or draft communications please label  
"PROPOSED" or "DRAFT");

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA., Sixth Floor (Receptionist).

wdt

June 18, 1999

  
GLENYON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2700